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CERTIFICATE OF EXPRESS MAIL

NUMBER **EL521284978US**

DATE OF DEPOSIT October 5 , 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner for Parants, Washington, D.C. 20231.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	Prior application
James A. Baum	§	
Amy Jelen Gilmer	§	Serial No. 09/337,635
Anne-Marie Light Mettus	§	
	§	Group Art Unit: 1653
Serial No.:	§	
,	§	Examiner: K. Carlson
Confirmation No.:	§	
	§	
Filed: Concurrently herewith	§	
	§	
For: COMPOSITIONS ENCODING	§	Atty. Dkt. No.: MECO:2141
LEPIDOPTERAN-TOXIC POLYPEPTIDES	§	11792.0214.DVUS01

BOX PATENT APPLICATION

AND METHODS OF USE (As amended)

Commissioner for Patents Washington, D.C. 20231

REQUEST FOR FILING DIVISIONAL APPLICATION UNDER 37 C.F.R. § 1.53(b)

This is a request for filing a divisional application under Rule 53(b) (37 C.F.R. § 1.53(b)) of co-pending prior application Serial No. 09/337,635 filed June 21, 1999, entitled "Lepidopteran-resistant transgenic plants."

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J. A. Baum et al. Page 2 of 4



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1. Enclosed is a copy of the prior application Serial No. 09/337,635 as originally filed, including specification (270 pages), claims (10 pages), abstract (1 page), drawings (11 sheets), and a declaration. The undersigned hereby verifies that the attached papers are a true copy of the prior application as originally filed and identified above, that no amendments (if any) referred to in the declaration filed to complete the prior application introduced new matter therein, and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

(a)	\boxtimes	The	inventorship	is	the	same	as	prior	Application	Serial	No.
		09/33	37,635.								

- (b) Deletion of inventor(s). Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. § 1.63(d)(2) and 1.33(b).
- (c) Priority of foreign patent application number, is claimed under 35 U.S.C. § 119 (a)-(e). The certified copy:

has been filed in the prior Application Serial No.

2. The Commissioner is authorized to charge the filing fee of \$740.00 to Deposit Account No. 01-2508/11792.0214.DVUS01. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed

materials, the Commissioner is authorized to deduct said fees from or credit any overpayment to Deposit Account No. 01-2508/11792.0214.DVUS01.

FEE CALCULATION (upon entry of Preliminary Amendment)

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
Basic Fee				\$740.00
Total Claims Independent	3 - 20 = 1 - 3 =	0 X 0 X	\$18.00 = \$80.00 =	0 0
Claims Multiple Depende	ent Claim(s)			\$-0-
				<u>\$740.00</u>

- 4. Address all future communications to:

Patricia A. Kammerer HOWREY SIMON ARNOLD & WHITE, LLP 750 Bering Drive Houston, Texas 77057-2198 (713) 787-1400

- 5. The prior application is presently assigned to Monsanto Technology LLC.
- Enclosed is a preliminary amendment. Any additional fees incurred by this amendment are included in box No. 2 above, and said fee has been calculated after amendment of the claims by the present preliminary amendment.
- 7. Enclosed are formal drawings.

J. A. B Page 4	Saum et of 4	al.				
\boxtimes	8.	An Information Disclosure Statement (IDS) is enclosed.				
\boxtimes		(a) PTO-1449.				
		(b) Copies of IDS citations.				
	9.	Transfer the sequence information, including the computer readable form previously submitted in the co-pending application Serial No. 09/337,635, filed June 21, 1999, for use in this application. 37 C.F.R. § 1.821(e).				

20. Return Receipt Postcard (specifically itemized).

Respectfully submitted,

Patricia A. Kammerer Reg. No. 29,775

HOWREY SIMON ARNOLD & WHITE, LLP 750 Bering Drive Houston, Texas 77057-2198 (713) 787-1400

Date: October 5, 2001

Attorney for Assignee MONSANTO TECHNOLOGY LLC

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✓ V Signature	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	}	
••	Group A	Art Unit:
James A. Baum	}	
Amy Jelen Gilmer	Examin	er:
Anne-Marie Light Mettus	}	
<u> </u>	Atty. D	kt. No.: MECO:2141
Serial No.:	}	11792.0214.DVUS01
	}	
Filed: Concurrently herewith	}	
·	}	
For: COMPOSITIONS ENODING	§	
LEPIDOPTERAN-TOXIC POLYPEPTIDES	}	
AND METHODS OF USE (As amended)	§	

SUBMISSION OF FORMAL DRAWINGS

BOX: PATENT APPLICATION

Commissioner for Patents Washington, D.C. 20231

Sir:

In connection with filing a divisional application under 37 C.F.R. § 1.53(b) of co-pending prior application Serial No. 09/337,635 filed June 21, 1999, Applicant hereby submits formal drawings (Figures 1 through 11, comprising 11 sheets) for the above-referenced application.

Respectfully submitted,

Patricia A. Kammerer

Reg. No. 29,775 Attorney for Assignee

MONSANTO TECHNOLOGY LLC

Howrey Simon Arnold & White, LLP 750 Bering Drive

Houston, Texas 77057-2198 Telephone: (713) 787-1400

Date: October 5, 2001